

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 503 - By Traeger: Extending welcome to students from San Luis Elementary School of Eagle Pass.

S.R. 504 - By Brown: Extending welcome to Marta Graytock and Eunice Geibel from Taylor Lake Village.

S.R. 505 - By Doggett: Extending congratulations to John Howard.

S.R. 506 - By Doggett: Extending congratulations to the University of Texas men's swimming team.

S.R. 507 - By Glasgow: Extending welcome to students from Millsap Independent School District.

S.R. 508 - By Meier: Extending congratulations to Mr. and Mrs. J. Oliver Shannon, Sr.

ADJOURNMENT

On motion of Senator Brooks the Senate at 12:11 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor
(April 10, 1981)

H.C.R. 130
H.C.R. 136
H.C.R. 139

Sent to Governor
(April 14, 1981)

S.B. 389

FIFTY-FOURTH DAY
(Wednesday, April 15, 1981)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

A quorum was announced present.

The Reverend Sam McCutchen, Riverbend Baptist Church, Austin, offered the invocation as follows:

Father,

We come today grateful for life and the blessing it alone affords. Father, grant us roots in order that we might establish our heritage and wings that we might soar to new heights of understanding. And most of all, grant us love so that we might serve and lead more effectively. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
April 15, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 246, Relating to the curriculum in public schools.

H.B. 344, Relating to the creation of the constitutional office of criminal district attorney of Caldwell County, abolishing the office of county attorney in that county, and conforming the jurisdiction of the D.A. of the 22nd Judicial Dist.

H.B. 325, Relating to the imposition of the state inheritance tax and the state generation skipping transfer tax.

H.B. 502, Relating to the deadline for filing an application for a place on a primary election ballot.

H.B. 634, Relating to the right of fire and police personnel to engage in certain political activities.

H.B. 733, Relating to the crime of and penalties for possession or delivery of drug paraphernalia.

H.B. 1050, Relating to interest on damages awarded in certain tort actions.

H.B. 1115, Relating to firemen's and policemen's civil service.

H.B. 1288, Relating to repeal of the poll tax.

The House has concurred in Senate amendments to **H.B. 629** by record vote of 133 ayes, 2 noes, 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Blake submitted the following report for the Committee on Administration:

S.C.R. 82
H.C.R. 45

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

S.B. 1206
S.B. 1131
S.B. 999
S.B. 1155
H.C.R. 94
S.B. 862
S.J.R. 23
C.S.S.B. 458 (Read first time)
C.S.S.B. 241 (Read first time)
C.S.S.B. 438 (Read first time)
C.S.S.B. 437 (Read first time)
C.S.S.B. 1016 (Read first time)
C.S.S.B. 1076 (Read first time)

Senator Snelson submitted the following report for the Committee on Education:

S.B. 894
S.B. 754
S.B. 1129
S.B. 892
C.S.S.B. 702 (Read first time)

Senator McKnight submitted the following report for the Subcommittee on Nominations:

- We, your Subcommittee on Nominations, to which were referred the following appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be COMMISSIONER OF THE TEXAS DEPARTMENT OF HUMAN RESOURCES: Marlin W. Johnston, Travis County.

To be Members of the BOARD OF REGENTS - TEXAS STATE TECHNICAL INSTITUTE: F. Herman Coleman, McLennan County; Jesse S. Harris, Dallas County; Liborio Hinojosa, Hidalgo County; Ralph A. Lowenfield, El Paso County.

To be Members of the BOARD OF DIRECTORS - LOWER COLORADO RIVER AUTHORITY: John Kenneth Dixon, Llano County; Marvin Selig, Guadalupe County.

To be a Member TEXAS BOARD OF HUMAN RESOURCES: Dr. Frederick C. Rehfeldt, Parker County.

To be a Member of the VETERANS AFFAIRS COMMISSION: Jack W. Flynt, Castro County.

To be Members of the BOARD OF REGENTS - MIDWESTERN STATE UNIVERSITY: Dr. David Harold Allen, Wichita County; Mrs. Aurora Sterling Bolin, Wichita County; Joe B. Meissner, Jr., Wichita County; Harold D. Rogers, Wichita County.

To be a Member of the BOARD OF REGENTS - TEXAS STATE UNIVERSITY SYSTEM: Bernard G. Johnson, Harris County.

To be a Member of the DISTRICT REVIEW COMMITTEE: Dr. Jesse Donald Cone, Ector County.

To be BRANCH PILOTS - PORTS OF GALVESTON COUNTY: Captain James R. Borup, Galveston County; Captain Nathan R. Branch, Galveston County.

To be a Member of the METRIC SYSTEM ADVISORY COUNCIL: Charles E. Forester, Caldwell County.

To be Members of the FINANCE COMMISSION OF TEXAS: Gerald Hicks Smith, Harris County; V. F. (Doc) Neuhaus, Hidalgo County.

To be a Member of the CREDIT UNION COMMISSION: Walter V. Duncan, Collin County.

To be a Member of the TEXAS BOARD OF OPTOMETRY: Salvador S. Mora, Webb County.

To be a Member of the BOARD OF DIRECTORS - GUADALUPE-BLANCO RIVER AUTHORITY: H. Elliot Knox, Comal County.

To be a Member of the TEXAS STATE BOARD OF EXAMINERS IN SOCIAL PSYCHOTHERAPY: Mrs. Marlene LaRoe, Harris County.

To be a Member of the BOARD OF DIRECTORS - UPPER GUADALUPE RIVER AUTHORITY: E. C. (Clyde) Parker, Jr., Kerr County.

To be a Member of the GULF COAST WASTE DISPOSAL AUTHORITY: John Unbehagen, Galveston County.

To be a Member of the BOARD OF DIRECTORS - UNIVERSITY SYSTEM OF SOUTH TEXAS: Mrs. Radcliffe (Sue) Killam, Webb County.

SENATE BILLS AND RESOLUTION ON FIRST READING

On motion of Senator Meier and by unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

- S.B. 1213** by Meier Intergovernmental Relations
Relating to the creation of the Criminal District Court No. 5 of Tarrant County.
- S.B. 1214** by Blake Intergovernmental Relations
Relating to the creation of the County Court at Law of Anderson County.
- S.B. 1215** by Glasgow Finance
Relating to appropriations to North Texas State University.
- S.B. 1216** by Leedom, Travis, Harris Intergovernmental Relations
Relating to the authority to create municipal courts of record in the city of Dallas and to provisions for the operation of the courts and appeals from the municipal courts of record.
- S.B. 1217** by Glasgow Intergovernmental Relations
Relating to the creation of a judicial district composed of Wise and Jack Counties and the office of district attorney for the district and to the reorganization of the 16th and 235th Judicial Districts.
- S.B. 1218** by Sarpalius Economic Development
Relating to the acquisition by a state bank of its stock or its parent bank holding company stock; amending Article 6, Chapter V, Texas Banking Code of 1943, as amended (Article 342-506, Vernon's Texas Civil Statutes), and declaring an emergency.
- S.B. 1219** by Harris State Affairs
Amending Section 1, Chapter 194, Acts of the 65th Legislature, 1977, as amended (Vernon's Texas Codes Annotated, Alcoholic Beverage Code) by adding Section 108.08 thereto, which permits manufacturers to serve free samples of their products at convention or trade shows.
- S.B. 1221** by Caperton, Farabee State Affairs
Relating to the quartering of prisoners on work furlough.
- S.C.R. 89** by Meier Natural Resources
Memorializing Congress to repeal legislation which prohibits the use of natural gas by any existing electrical generating facility after January 1, 1990.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

- H.B. 357**, To Committee on Education.
H.B. 189, To Committee on Finance.

CO-AUTHOR OF SENATE BILL 531

On motion of Senator Glasgow and by unanimous consent, Senator Brown will be shown as Co-author of **S.B. 531**.

CO-AUTHOR OF SENATE BILL 727

On motion of Senator Santiesteban and by unanimous consent, Senator Mengden will be shown as Co-author of **S.B. 727**.

CO-AUTHORS OF SENATE BILL 1216

On motion of Senator Leedom and by unanimous consent, Senators Travis and Harris will be shown as Co-authors of S.B. 1216.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.B. 767
S.B. 370
S.B. 305
S.B. 101
S.C.R. 87
H.B. 629
H.C.R. 140

SENATE RESOLUTION 511

Senator Brooks offered the following resolution:

WHEREAS, Helen Farabee has devoted herself to community and civic projects for many years, working tirelessly to improve the quality of life for everyone, and the people who have known and respected this outstanding woman through the years are extremely proud of her achievements; and

WHEREAS, Mrs. Farabee, the wife of our colleague Ray Farabee, received a bachelor of science degree from the University of Wisconsin in 1957 where she distinguished herself as student body president and the recipient of the outstanding graduating senior award; and

WHEREAS, This extremely talented individual worked for Better Homes and Gardens magazine from 1957 until 1958 and for the Dallas Times Herald from 1958 until 1959; she also served as assistant dean of women at The University of Texas from 1958 until 1961; and

WHEREAS, Mrs. Farabee is well known for her exceptional work in the area of human services and mental health; she is an influential figure on both a national and a state level, serving in numerous positions in the National Mental Health Association and was appointed by Rosalyn Carter to the Public Committee on Mental Health. She is also past president and a member of the Texas Mental Health Association, past chairman of the Texas State Mental Health Advisory Council, the Texas Legislative Interim Committee to Study Laws of Texas on Mental Health and Mental Retardation, and the Texas Legislative Interim Committee on Study Services for Emotionally Disturbed Children. She currently serves on the Governor's Long-Term Care Planning Group and is chair of the Special Senate Committee on the Delivery of Human Services in Texas; and

WHEREAS, Locally, Mrs. Farabee is chair of the Human Resources Committee of Goals for Wichita Falls; she is past president of the Wichita County Mental Health Association and a member of the Wichita Falls Mental Health and Mental Retardation Center Board of Trustees. She has also held many positions in the United Way of Texas and the United Way of Greater Wichita Falls, served in the Children and Youth Action Council of Wichita County, was past president and board member of Child Care, Inc., and served as a member of the League of Women Voters, the Wichita Falls Symphony Orchestra Board of Directors and Symphony Women's League, the Women of

Rotary, the Museum Guild, the Criterion Club, and Kappa Kappa Gamma social sorority; and

WHEREAS, A member of the First Presbyterian Church, Helen Farabee is truly an asset to her community and to her state, and the many people who have known her and worked with her over the years are grateful to her for her diligent work to better the community of Wichita Falls and the State of Texas; now, therefore, be it

RESOLVED, That the Senate of the 67th Legislature of the State of Texas commend Helen Farabee on her outstanding achievements and extend to her best wishes for many years of continued happiness and success; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Mrs. Farabee as a token of high esteem from the Texas Senate.

BROOKS
SNELSON
MEIER

The resolution was read and was adopted.

SENATE CONCURRENT RESOLUTION 90

Senator Brown offered the following resolution:

WHEREAS, The 'Columbia,' the most advanced spacecraft ever built, opens the universe as we enter the twenty-first century; and

WHEREAS, The successful voyage into space and the safe return of this manned spacecraft will revolutionize our world as we know it and will be an inspiration, now, as it has been, to all the people of the earth; and

WHEREAS, On April 12, 1981, this space shuttle was launched, made its maiden journey of 37 orbits, 150 nautical miles above the earth's surface, and returned safely to Edwards Air Force Base, California, where its future as our first reusable space vehicle will be long, historic, and scientifically significant; and

WHEREAS, John W. Young was the commander and a veteran of four previous space flights; and

WHEREAS, Navy Captain Robert L. Crippen, a native Texan, was the pilot of this 75-ton spacecraft; and

WHEREAS, The United States has led in this effort of space exploration; and

WHEREAS, The State of Texas is proud to have played a role in the program that brought about this historic event; and

WHEREAS, The Lyndon B. Johnson Space Center, which is located in State Senatorial District 17, is the "jumping off" point for this new era of space exploration, settlement, and industrialization; and

WHEREAS, The 'Columbia' represents the culmination of work and involvement of dedicated people for many, many years; now, therefore, be it

RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the 67th Legislature honor these two valiant space pioneers for their participation in this important step in our understanding of the universe and commemorate their historic voyage; and, be it further

RESOLVED, That Commander John Young and Captain Robert Crippen be and are hereby invited to address a joint session of the 67th Legislature in the Hall of the House; and, be it further

RESOLVED, That a copy of this resolution be prepared for Commander Young and Captain Crippen as an official invitation from the Legislature of the State of Texas.

BROWN
BROOKS

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brown and by unanimous consent, the resolution was considered immediately and was adopted.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Subcommittee on Nominations:

Austin, Texas
April 15, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment pursuant to Senate Bill No. 596:

TO BE JUDGE OF THE 268TH JUDICIAL DISTRICT COURT, FORT BEND COUNTY, UNTIL THE NEXT GENERAL ELECTION AND UNTIL HIS SUCCESSOR SHALL BE DULY ELECTED AND QUALIFIED:

JUDGE A. REAGAN CLARK of Richmond, Fort Bend County.

Respectfully submitted,

William P. Clements, Jr.
Governor of Texas

SENATE BILL 484 WITH HOUSE AMENDMENTS

Senator Williams called S.B. 484 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Pumbo

Substitute the following for S.B. 484:

A BILL TO BE ENTITLED AN ACT

relating to the licensing and regulation of real estate brokers and real estate salesmen, the authority and responsibility of the Texas Real Estate Commission, and the handling of complaints; providing a repealing clause; providing for

severability; amending The Real Estate License Act, as amended, by amending Subsections (a), (c), and (d), Section 7; striking Subsection (g), Section 5, and Subsections (e) through (k), Section 7; and adding Section 15B; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5 of The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended by striking Subsection (g) in its entirety and relettering the subsequent subsections of Section 5 to read as follows:

~~“(g) [When in this Act a power, right, or duty is conferred on the commission, the power, right, or duty shall be exercised by the administrator or by the assistant administrator, unless the commission directs otherwise by an order entered in the minutes of a commission meeting; and in such case, the power, right, or duty shall rest in or on the commission. Service of process on the administrator or assistant administrator shall be service of process on the commission. Reports, notices, applications, or instruments of any kind required to be filed with the commission shall be considered filed with the commission if filed with the administrator or assistant administrator. A decision, order, or act of the commission referred to in this Act, other than an order of the commission relative to the administrator or his powers, rights, or duties, means and includes an order, decision, or act of the administrator or of the assistant administrator when duly acting for the administrator. Where the commission is authorized in this Act to delegate authority or to designate agents, the administrator, or the assistant administrator when duly acting for the administrator, shall have the right and the power to delegate authority and designate agents, unless the commission shall enter its order in the minutes of a commission meeting directing otherwise. The administrator, or the assistant administrator when duly acting for the administrator, shall act as manager, secretary, and custodian of all records, unless the commission shall otherwise order, and each shall devote his entire time to his office.]~~

~~“(h) [The commission shall adopt a seal of a design which it shall prescribe. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of the commission, shall be received in evidence in all courts with like effect as the original.]~~

~~“(i) [(h)] Except as provided in Subsection (i) [(h)] of this section, all money derived from fees, assessments, or charges under this Act, shall be paid by the commission into the State Treasury for safekeeping, and shall be placed by the State Treasurer in a separate fund to be available for the use of the commission in the administration of this Act on requisition by the commission. A necessary amount of the money so paid into the State Treasury is hereby specifically appropriated to the commission for the purpose of paying the salaries and expenses necessary and proper for the administration of this Act, including equipment and maintenance of supplies for the offices or quarters occupied by the commission, and necessary travel expenses for the commission or persons authorized to act for it when performing duties under this Act. At the end of the state fiscal year, any unused portion of the funds in the special account, except such funds as may be appropriated to administer this Act pending receipt of additional revenues available for that purpose, shall be paid into the General Revenue Fund. The comptroller shall, on requisition of the commission, draw warrants from time to time on the State Treasurer for the amount specified in the requisition, not exceeding, however, the amount in the fund at the time of making a requisition. However, all money expended in the administration of this Act shall be specified and determined by itemized~~

appropriation in the general departmental appropriation bill for the Texas Real Estate Commission, and not otherwise.

"(i) [(j)] Fifteen dollars received by the commission for each annual certification of real estate broker licensure status and \$7.50 received by the commission for each annual certification of real estate salesman licensure status shall be transmitted to Texas A&M University for deposit in a separate banking account. The money in the separate account shall be expended for the support and maintenance of the Texas Real Estate Research Center and for carrying out the purposes, objectives, and duties of the center.

"(j) [(k)] The Texas Real Estate Commission is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1991.

"(k) [(l)] The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252—17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252—13a, Vernon's Texas Civil Statutes)."

SECTION 2. Section 7 of The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (c), and (d) to read as follows:

"(a) Competency as referred to in Section 6 of this Act shall be established by an examination prepared by or contracted for by the commission. The examination shall be given at such times and at such places within the state as the commission shall prescribe. The examination shall be of scope sufficient in the judgment of the commission to determine that a person is competent to act as a real estate broker or salesman in a manner to protect the interest of the public. The examination for a salesman license shall be less exacting and less stringent than the examination for a broker license. The commission shall furnish each applicant with study material and references on which his examination shall be based. When an applicant for real estate licensure fails a qualifying examination, he may apply for reexamination by filing a request therefor together with the proper fee. The examination requirement shall be satisfied within one year from the date the application for a license is filed. Courses of study required for licensure shall include but not be limited to the following which shall be considered core real estate courses for all purposes of this Act:

"(1) Principles of Real Estate (or equivalent) shall include but not be limited to an overview of licensing as a real estate broker and salesman, ethics of practice, titles to and conveyancing of real estate, legal descriptions, law of agency, deeds, encumbrances and liens, distinctions between personal and real property, contracts, appraisal, finance and regulations, closing procedures, and real estate mathematics.

"(2) Real Estate Appraisal (or equivalent) shall include but not be limited to the central purposes and functions of an appraisal, social and economic determinant of value, appraisal case studies, cost, market data and income approaches to value estimates, final correlations, and reporting.

"(3) Real Estate Law (or equivalent) shall include but not be limited to legal concepts of real estate, land description, real property rights and estates in land, contracts, conveyances, encumbrances, foreclosures, recording procedures, and evidence of titles.

"(4) Real Estate Finance (or equivalent) shall include but not be limited to monetary systems, primary and secondary money markets, sources of mortgage loans, federal government programs, loan applications, processes and procedures, closing costs, alternative financial instruments, equal credit opportunity acts, community reinvestment act, and state housing agency.

“(5) Real Estate Marketing (or equivalent) shall include but not be limited to real estate professionalism and ethics, characteristics of successful salesmen, time management, psychology of marketing, listing procedures, advertising, negotiating and closing, financing, and the Deceptive Trade Practices-Consumer Protection Act, as amended, Section 17.01 et seq., Business & Commerce Code.

“(6) Real Estate Mathematics (or equivalent) shall include but not be limited to basic arithmetic skills and review of mathematical logic, percentages, interest, time-valued money, depreciation, amortization, proration, and estimation of closing statements.

“(7) Real Estate Brokerage (or equivalent) shall include but not be limited to law of agency, planning and organization, operational policies and procedures, recruiting, selection and training of personnel, records and control, and real estate firm analysis and expansion criteria.

“(8) Property Management (or equivalent) shall include but not be limited to role of property manager, landlord policies, operational guidelines, leases, lease negotiations, tenant relations, maintenance, reports, habitability laws, and the Fair Housing Act.

“(9) Real Estate Investments (or equivalent) shall include but not be limited to real estate investment characteristics, techniques of investment analysis, time-valued money, discounted and nondiscounted investment criteria, leverage, tax shelters depreciation, and applications to property tax.]:—arithmetical calculations as used in real estate transactions; rudimentary principles of conveyancing; the general purposes and effect of deeds, deeds of trust, mortgages, land contracts of sales, leases, liens, and listing contracts; elementary principles of land economics and appraisals; fundamentals of obligations between principal and agent; principles of real estate practice and canons of ethics pertaining thereto; and the provisions of this Act and rules and regulations of the commission.]

“(c) From and after the effective date of this Act, each applicant for broker licensure shall furnish the commission satisfactory evidence that he has had not less than two years active experience in this state as a licensed real estate salesman practitioner during the 36-month period immediately preceding the filing of the application; and, in addition, [prior to January 1, 1977,] shall furnish the commission satisfactory evidence of having [that he has successfully] completed successfully 36 semester hours of core [180 classroom hours in] real estate courses or related courses accepted by the commission. On [or after January 1, 1977, an applicant for real estate broker licensure shall submit evidence, satisfactory to the commission, of successful completion at an accredited college or university of 12 semester hours of real estate or related courses accepted by the commission, or of a course of study accepted by the commission as being equivalent to the courses offered by accredited colleges and universities. On or after January 1, 1979, the number of required semester hours shall be increased to 15; on or after January 1, 1981, the number of required semester hours shall be increased to 36; and on] or after January 1, 1983, the number of required semester hours shall be increased to 48. On or after January 1, 1985, the required semester hours shall be increased to 60 [an applicant for a real estate broker license shall submit evidence, satisfactory to the commission, that he has successfully completed 60 semester hours in real estate or related courses accepted by the commission from an accredited college or university, or that he has completed a course of study accepted by the commission as being equivalent to the courses offered by accredited colleges and universities. The requirement of not less than two years experience as a Texas real estate licensee during the 36-month period immediately preceding the filing of the application for broker licensure shall not apply to applications submitted

~~on or after January 1, 1985].~~ These qualifications for broker licensure shall not be required of an applicant who, at the time of making the application, is duly licensed as a real estate broker by any other state in the United States if that state's requirements for licensure are comparable to those of Texas.

"(d) From and after the effective date of this Act, as a prerequisite for applying for salesman licensure ~~[prior to January 1, 1977,]~~ each applicant shall furnish the commission satisfactory evidence of having ~~[that he has]~~ completed 12 semester hours of postsecondary education, six semester hours of which must be completed in core real estate courses, of which a minimum of two semester hours must be completed in Principles of Real Estate as described in Subdivision (1) of Subsection (a) of Section 7. The remaining six semester hours shall be completed in core real estate courses or related courses ~~[30 classroom hours in a basic real estate fundamentals course or related course accepted by the commission].~~ As a condition for the second annual certification of salesman licensure privileges, the applicant ~~[licensee]~~ shall furnish the commission satisfactory evidence of having ~~[that he has successfully]~~ completed a minimum of 14 semester hours, eight semester hours of which must be completed in core real estate courses. As a condition for the third annual certification of salesman licensure privileges, the applicant shall furnish the commission satisfactory evidence of having completed a minimum of 16 semester hours, 10 semester hours of which must be completed in core real estate courses. As a condition for the fourth annual certification of salesman licensure privileges, the applicant shall furnish the commission satisfactory evidence of having completed a minimum of 18 semester hours, 12 semester hours of which must be completed in core real estate courses. ~~[an additional 30 classroom hours of real estate courses or related courses accepted by the commission, and as a condition for the third annual certification of salesman licensure privileges, the licensee shall furnish the commission satisfactory evidence that he has successfully completed an additional 30 classroom hours of real estate courses or related courses accepted by the commission. On or after January 1, 1977, an applicant for real estate salesman licensure shall submit evidence, satisfactory to the commission, of successful completion at an accredited college or university of six semester hours of real estate courses or related courses accepted by the commission, or of a course of study accepted by the commission as being equivalent to the courses offered by accredited colleges and universities. On or after January 1, 1979, the number of required semester hours shall be increased to 12; on or after January 1, 1981, the number of required semester hours shall be increased to 21; and on or after January 1, 1983, the number of required semester hours shall be increased to 36.]"~~

SECTION 3. Section 7 of The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended by amending Subsections (e) through (k) to read as follows:

"(e) ~~[On or after January 1, 1985, the commission shall accept applications for broker licensure only, and each license issued on or after January 1, 1985, shall be designated as a license to practice real estate.~~

"[(f)] Insofar as is necessary for the administration of this Act, the commission is authorized to inspect and accredit educational programs or courses of study in real estate and to establish standards of accreditation for such programs conducted in the State of Texas, other than accredited colleges and universities. Schools, other than accredited colleges and universities, which are authorized to offer real estate educational courses pursuant to provisions of this section shall be required to maintain a corporate surety bond in the sum of \$10,000 payable to the commission, for the benefit of a party who may suffer damages resulting from failure of a commission approved school or course to fulfill obligations attendant to the approval.

"(f) [(g)] A person who is licensed as a salesman on the effective date of this Act is not subject to the educational requirements or prerequisites of this Act as a condition for holding salesman licensure privileges. A person who is licensed as a broker on the effective date of this Act is not subject to the educational requirements or prerequisites of this Act as a condition for holding broker licensure privileges. A person who is licensed as a real estate salesman on the effective date of this Act may submit an application for broker licensure during the 24-month period immediately following such date if he furnishes evidence satisfactory to the commission that he meets the prerequisites for applying for broker licensure in force and effect on the day prior to the effective date of this Act.

"(g) [(h)] Notwithstanding any other provision of this Act, from and after the effective date of this Act each applicant for broker licensure shall furnish the commission with satisfactory evidence:

"(1) that he has satisfied the requirements of Subsection (c) of this section;

"(2) ~~[that he has satisfied the requirements for broker licensure effective on or after January 1, 1985, as provided by Subsection (c) of this section;~~

"[(3)] that he is a licensed real estate broker in another state, that he has had not less than two years' active experience in the other state as a licensed real estate salesman or broker during the 36-month period immediately preceding the filing of the application, and that he has satisfied the educational requirements for broker licensure as provided by Subsection (c) of this section; or

"(3) [(4)] that he has, within one year previous to the filing of his application, been licensed in this state as a broker.

"(h) [(i)] Notwithstanding any other provision of this Act, the commission shall waive the requirements of Subsection (d) of Section 7 of this Act for an applicant for salesman licensure who has, within one year previous to the filing of his application, been licensed in this state as a broker or salesman. However, with respect to an applicant for salesman licensure who was licensed as a salesman within one year previous to the filing of the application but whose original licensure privileges were issued under the provisions that second and third annual certification of the licensure privileges would be conditioned upon furnishing satisfactory evidence of successful completion of additional education, the commission shall require the applicant to furnish satisfactory evidence of successful completion of any additional education that would have been required if the licensure privileges had been maintained without interruption during the previous year.

"(i) [(j)] Not later than the 30th day after the day on which a person completes an examination administered by the commission, the commission shall send to the person his or her examination results. If requested in writing by a person who fails the examination, the commission shall send to the person not later than the 30th day after the day on which the request is received by the commission an analysis of the person's performance on the examination.

"(j) [(k)] All applicants for licensure must complete at least three classroom hours of coursework on federal, state, and local laws governing housing discrimination, housing credit discrimination, and community reinvestment or at least three semester hours of coursework on constitutional law."

SECTION 4. The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended by adding a new Section 15B to read as follows:

"Section 15B. It is the intent of the legislature that the commission only is vested with the authority and responsibility for the administration, implementation and enforcement of this Act. Duties, functions, and responsibilities of the commission's administrative assistants, agents, investigators, and all other employees shall be those assigned and determined by the commission. Notwithstanding any other provision of the Act, there shall be no undercover or covert investigations conducted by authority of this Act unless expressly authorized by the commission after due consideration of the circumstances and determination by the commission that such measures are necessary to carry out the purposes of this Act. No investigations of licensees or any other actions against licensees shall be initiated on the basis of anonymous complaints whether in writing or otherwise but shall be initiated only upon the commission's own motion or a verified written complaint. Upon the adoption of such motion by the commission or upon receipt of such complaint, the licensee shall be notified promptly and in writing unless the commission itself, after due consideration, determines otherwise. Provided, however, that the commission shall have the right and may, upon majority vote, rule that an order revoking, cancelling, or suspending a license be probated upon reasonable terms and conditions determined by the commission."

SECTION 5. All laws or parts of laws in conflict with the provisions of this Act shall be and the same are hereby repealed.

SECTION 6. If any article, section, subsection, sentence, clause, or phrase of this Act is for any purpose or reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have passed the valid portions of the Act irrespective of the fact that any one or more portions thereof be declared unconstitutional.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1 - Sharp

Amend C.S.H.B. 484 as follows:

1. Strike Section 1 and substitute the following:

SECTION 1. Section 5(g) of The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is repealed.

2. Strike Section 3 and substitute the following:

SECTION 3. Section 7(e) of The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is repealed.

3. Insert a new Section 4 to read as follows and renumber sections accordingly:

SECTION 4. Section 7(h) of The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended to read as follows:

"(h) Notwithstanding any other provision of this Act, from and after the effective date of this Act each applicant for broker licensure shall furnish the commission with satisfactory evidence:

“(1) that he has satisfied the requirements of Subsection (c) of this section;

“(2) ~~that he has satisfied the requirements for broker licensure effective on or after January 1, 1985, as provided by Subsection (c) of this section;~~

“~~[(3)]~~ that he is a licensed real estate broker in another state, that he has had not less than two years’ active experience in the other state as a licensed real estate salesman or broker during the 36-month period immediately preceding the filing of the application, and that he has satisfied the educational requirements for broker licensure as provided by Subsection (c) of this section; or

“(3) ~~[(4)]~~ that he has, within one year previous to the filing of his application, been licensed in this state as a broker.”

Floor Amendment No. 2 - Craddick

Amend C.S.S.B. 484 by adding a new Section 5 to read as follows and renumbering Section 5 as it appears in C.S.S.B. 484 and subsequent sections in appropriate numerical sequence:

SECTION 5. Section 9 of The Real Estate License Act, as amended (Article 6573a, Vernon’s Texas Civil Statutes), is amended by adding a subsection (d) to read as follows:

“(d) Any other provision of this Act notwithstanding, the Commission may issue licenses valid for a period not to exceed 24 months and may charge and collect certification fees for such period; provided, however, that such certification fees shall not, calculated on an annual basis, exceed the amounts established in Section 11 of this Act, and further provided that the educational conditions for annual certification established in Section 7 (d) of this Act shall not be waived by the Commission.

Floor Amendment No. 3 - Whitmire

Amend Section 3, C.S.S.B. 484, by amending subsection (h) of Section 7 of the Real Estate License Act, as amended (Article 6573a, Vernon’s Texas Civil Statutes) to read as follows:

“(h) Notwithstanding any other provision of this Act, from and after the effective date of this Act each applicant for broker licensure shall furnish the commission with satisfactory evidence:

“(1) that he has satisfied the requirements of Subsection (c) of this section; or

“(2) that prior to July 1, 1981 he has applied for broker licensure and has satisfied the requirements for broker licensure effective on or after January 1, 1985, as provided by Subsection (c) of this section; or

“(3) that he is a licensed real estate broker in another state, that he has had not less than two years’ active experience in the other state as a licensed real estate salesman or broker during the 36-month period immediately preceding the filing of the application, and that he has satisfied the educational requirements for broker licensure as provided by Subsection (c) of this section; or

“(4) that he has, within one year previous to the filing of his application, been licensed in this state as a broker.

The amendments were read.

Senator Williams moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 351 WITH HOUSE AMENDMENTS

Senator Traeger called S.B. 351 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Substitute No. 1 - Simpson

Substitute the following for S.B. 351:

A BILL TO BE ENTITLED AN ACT

relating to the maximum amount of life insurance coverage that can be sold to an individual under a group policy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivisions (1), (5), (7), and (7A), Section 1, Article 3.50, Insurance Code, as amended, are amended to read as follows:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's fund or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent (75%) of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least ten (10) employees at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees. No policy may be issued which provides insurance on any employee which together with any other insurance under any group life insurance policies issued to the employer or to the trustees of a fund established by the employer exceeds Fifty Thousand Dollars (\$50,000.00), unless ~~four~~ two hundred percent ~~(400%)~~ (200%) of the annual compensation of such employee from his employer or employers exceeds Fifty Thousand Dollars (\$50,000.00), in which event all such term insurance shall not exceed ~~One Hundred Thousand Dollars (\$100,000.00), or~~ four ~~two~~ hundred percent ~~(400%)~~ (200%) of such annual compensation, ~~[whichever is the lesser,]~~ except that this limitation shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension or profit-sharing plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

(5) A policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or to the trustees of a fund established by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the union, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers and the employees of the trade association of such employers or all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or, partly from such funds and partly from funds contributed by the insured persons, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five percent (75%) of the then eligible persons of each participating employer unit, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at date of issue at least one hundred (100) persons; unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder or employer. No policy may be issued which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to trustees or employers exceeds Fifty Thousand Dollars (\$50,000.00), unless ~~four~~ two hundred percent ~~(400%)~~ (200%) of the annual compensation of such employee from his employer or employers exceeds Fifty Thousand Dollars (\$50,000.00) in which event all such term insurance shall not exceed ~~One Hundred Thousand Dollars (\$100,000.00) or~~ four ~~two~~ hundred percent ~~(400%)~~ (200%) of such annual compensation, ~~[whichever is the lesser]~~.

(e) The limitation as to amount of group insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amount provided by the policy which it replaces, or the amounts provided above whichever is greater.

(f) No policy may be issued (i) to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer (regardless of whether such other employer is or is not participating in the fund); or (ii) to insure employees of any employer which is not located in this state, unless the majority of the employers whose employees are to be insured are located in this state, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

(7) No policy of wholesale, franchise or employee life insurance, as hereinafter defined, shall be issued or delivered in this state unless it conforms to the following requirements:

(a) Wholesale, franchise or employee life insurance is hereby defined as: a term life insurance plan under which a number of individual term life insurance policies are issued at special rates to a selected group. A special rate is any rate lower than the rate shown in the issuing insurance company's manual for individually issued policies of the same type and to insureds of the same class.

(b) Wholesale, franchise or employee life insurance may be issued to (1) the employees of a common employer or employers, covering at date of issue not less than five employees; or (2) the members of a labor union or unions covering at date of issue not less than five members; or (3) the members of a credit union or credit unions covering at date of issue not less than five (5) members.

(c) The premium for the policy shall be paid either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions or by both, or partly from such funds and partly from funds

contributed by the insured person, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month.

(d) No policy may be issued on a wholesale, franchise or employee life insurance basis which, together with any other term life insurance policy or policies issued on a wholesale, franchise, employee life insurance or group basis, provides term life insurance coverage for an amount in excess of Fifty Thousand Dollars (\$50,000.00), unless four ~~two~~ hundred percent (400%) ~~[(200%)]~~ of the annual compensation of such employee from his employer or employers exceeds Fifty Thousand Dollars (\$50,000.00), in which event all such term insurance shall not exceed ~~[One Hundred Thousand Dollars (\$100,000.00), or]~~ four ~~two~~ hundred percent (400%) ~~[(200%)]~~ of such annual compensation, ~~[whichever is the lesser.]~~ An individual application shall be taken for each such policy and the insurer shall be entitled to rely upon the applicant's statements as to applicant's other similar coverage upon his life.

(e) Each such policy of insurance shall contain a provision substantially as follows:

A provision that if the insurance on an insured person ceases because of termination of employment or of membership in the union, such person shall be entitled to have issued to him by the insurer, without evidence of insurability an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination.

(f) Each such policy may contain any provision substantially as follows:

(1) A provision that the policy is renewable at the option of the insurer only;

(2) A provision for termination of coverage by the insurer upon termination of employment by the insured employee;

(3) A provision requiring a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as condition to coverage.

(g) The limitation as to amount of group and wholesale, franchise or employee life insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

(h) Nothing contained in this Subsection (7) shall in any manner alter, impair or invalidate (1) any policy heretofore issued prior to the effective date of this Act; nor (2) any such plan heretofore placed in force and effect provided such prior plan was at date of issue legal and valid; nor (3) any policy issued on a salary savings franchise plan, bank deduction plan, pre-authorized check plan or similar plan of premium collection.

(7A) A policy may be issued to a principal, or if such principal is a life or life and accident or life, accident and health insurer, by or to such principal, covering when issued not less than ten (10) agents of the principal, subject to the following requirements:

(a) As used in this section, the term "agents" shall be deemed to include general agents, subagents and salesmen.

(b) The agents eligible for insurance under the policy shall be those who are under contract to render personal services for the principal for a commission or other fixed or ascertainable compensation.

(c) The premium for the policy shall be paid either wholly by the principal or partly from funds contributed by the principal and partly from funds contributed by the insured agents. A policy on which no part of the premium is to be derived from funds contributed by the insured agents must insure all of the eligible agents or all of any class or classes thereof determined by conditions pertaining to the services to be rendered by the agents to the principal. A policy on which part of the premium is to be derived from funds contributed by the insured agents must cover at issue at least seventy-five percent (75%) of the eligible agents or at least seventy-five percent (75%) of any class or classes thereof determined by conditions pertaining to the services to be rendered by the agents; provided, however, that the benefits may be extended to other classes of agents as seventy-five percent (75%) thereof express the desire to be covered.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the principal or by the agents. No policy may be issued which provides term insurance on any agent which together with any other term insurance under any group life insurance policy or policies issued to the principal exceeds Fifty Thousand Dollars (\$50,000.00), unless four ~~two~~ hundred percent ~~(400%)~~ ~~[(200%)]~~ of the annual commissions or other fixed or ascertainable compensation of such agent from the principal exceeds Fifty Thousand Dollars (\$50,000.00), in which event all such term insurance shall not exceed ~~[One Hundred Thousand Dollars (\$100,000.00), or]~~ four ~~two~~ hundred percent ~~(400%)~~ ~~[(200%)]~~ of such annual commissions or other fixed or ascertainable compensation, ~~[whichever is the lesser]~~.

(e) The insurance shall be for the benefit of persons other than the principal.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, it is so enacted.

Floor Amendment No. 1 - Simpson

Amend C.S.S.B. 351 by striking "Fifty Thousand Dollars (\$50,000.00)" and substituting the words "One Hundred Thousand Dollars (\$100,000.00)" in the following places:

- A. Page 2, line 26
- B. Page 3, lines 1 and 2
- C. Page 5, line 22
- D. Page 5, lines 24 and 25
- E. Page 7, lines 23 and 24
- F. Page 7, line 26
- G. Page 10, line 20
- H. Page 10, lines 23 and 24

The amendments were read.

Senator Traeger moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 586 WITH HOUSE AMENDMENT

Senator Traeger called S.B. 586 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Florence

Substitute the following for S.B. 586:

**A BILL TO BE ENTITLED
AN ACT**

relating to the appointment, qualifications, powers, and compensation of a special county judge in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1, Chapter 475, Acts of the 64th Legislature, Regular Session, 1975 (Article 1933a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. The provisions of this Act ~~[Article]~~ apply only to counties in which there is no statutory county court at law or statutory probate court, and in which all duties of the county court devolve upon the county judge. The provisions hereof are cumulative of all other provisions of law for appointment or election of special county judges, and existing provisions are repealed hereby only to the extent of any conflict.

SECTION 2. Subsection (e), Section 2, Chapter 475, Acts of the 64th Legislature, Regular Session, 1975 (Article 1933a, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) Thereafter, the special county judge, while sitting in the matter in which he is so appointed, shall have and exercise all powers of a county judge in relation to the matter involved ~~[and shall be entitled to compensation in such amount as the commissioners court of the county may provide]~~.

SECTION 3. Chapter 475, Acts of the 64th Legislature, Regular Session, 1975 (Article 1933a, Vernon's Texas Civil Statutes), is amended by adding Section 3 to read as follows:

Sec. 3. (a) The county judge may appoint a retired judge to sit as a special county judge during a period when the county judge is absent by reason of physical incapacitation or absence from the county. The special county judge shall sit in all matters that may be docketed on any of the court's dockets, and shall have and exercise all powers of a county judge in relation to the matters involved. The cumulative time a special county judge or special county judges appointed under this subsection may sit shall not exceed a total of 15 working days during a calendar year without the consent of the commissioners court.

(b) If a county judge finds that the dockets of the county court reflect a case load which the judge deems to be in excess of that which can be disposed of properly in a manner consistent with the efficient administration of justice, the judge, acting with the consent of the commissioners court, may appoint a retired judge as a special county judge to share the bench for such periods of time as may be authorized by the commissioners court. The special county judge shall sit in such matters as the county judge may authorize and shall have and exercise all powers of a county judge in relation to the authorized matters.

(c) The order appointing a special county judge under this section shall be noted in the docket of the county court.

(d) A retired judge appointed under this section shall be a former judge who, prior to the appointment, has served at least eight years as the county judge of a county in this state or who has served as a district judge of this state, and who has qualified for the judicial retirement system.

SECTION 4. Chapter 475, Acts of the 64th Legislature, Regular Session, 1975 (Article 1933a, Vernon's Texas Civil Statutes), is amended by adding Section 4 to read as follows:

Sec. 4. A special county judge who is appointed under this Act shall be compensated by the commissioners court at the rate of 1/365 of the annual salary of the county judge for each day that the judge sits as special county judge.

SECTION 5. Chapter 475, Acts of the 64th Legislature, Regular Session, 1975 (Article 1933a, Vernon's Texas Civil Statutes), is amended by adding Section 5 to read as follows:

Sec. 5. A special county judge who is appointed under this Act may not exercise any of the powers of the county judge as member and presiding officer of the commissioners court or relating to the general administration of county business.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 185 WITH HOUSE AMENDMENT

Senator Snelson called S.B. 185 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Blanton

Amend S.B. 185 as follows:

(1) On page 2, line 2, insert "(other than Occupational or Physical Therapist)" between "Personnel" and the comma following "Personnel".

(2) On page 2, line 14, insert "(other than Occupational or Physical Therapist)" between "Personnel" and the comma following "Personnel".

(3) On pages 4 and 5, strike Section 2 of the bill and renumber Sections 3 and 4 as Sections 2 and 3.

The amendment was read.

Senator Snelson moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 123 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 123 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Nabers

Substitute the following for S.B. 123:

**A BILL TO BE ENTITLED
AN ACT**

relating to the conditions under which shock probation may be granted.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3e(a), Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

(a) For the purposes of this section, the jurisdiction of a court ~~in this state~~ [the courts in this state] in which a sentence requiring confinement in the Texas Department of Corrections is imposed for conviction (of a felony) shall continue for 180 [120] days from the date the execution of the sentence actually begins. After the expiration of 60 days but prior to the expiration of 180 [120] days from the date the execution of the sentence actually begins, the judge of the court that imposed such sentence may [-] on his own motion or on written motion of the defendant, suspend further execution of the sentence imposed and place the defendant on probation under the terms and conditions of this article, ~~if such sentence is otherwise eligible for probation under this article and prior to the execution of such sentence, the defendant had never been incarcerated in a penitentiary serving a sentence for a felony~~ and in the opinion of the judge the defendant would not benefit from further incarceration in a penitentiary. Probation may be granted under this section only if:

- (1) the defendant is otherwise eligible for probation under this article; and
- (2) the defendant had never before been incarcerated in a penitentiary serving a sentence for a felony; and
- (3) the offense for which the defendant was convicted was other than those defined by Section 19.02, 20.04, 21.03, 21.05, 22.03, 29.03, 38.07, 71.02 or a felony of the second degree under section 38.10, Penal Code. ~~[the offense for which the defendant was sentenced was an offense other than criminal homicide, rape, or robbery.]~~

SECTION 2. Section 3e(b), Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

When the defendant files a written motion requesting suspension by the court of further execution of the sentence and placement on probation, and [or] when requested to do so by the court, [judge] the clerk of the court shall request a copy of the defendant's record while incarcerated from the Texas Department of Corrections. Upon receipt of such request, the Texas Department of Corrections shall forward to the court, as soon as possible, a full and complete copy of the defendant's record while incarcerated. When the defendant files a written motion requesting suspension of further execution of the sentence and placement on probation, he shall immediately deliver or cause to be delivered, a true and correct copy of the motion to the office of the prosecuting attorney.

SECTION 3. Section 3e, Article 42.12, Code of Criminal Procedure, 1965, is amended by adding Subsection (c) to read as follows:

(c) The court may deny the motion without a hearing but may not grant the motion without holding a hearing and providing the attorney for the state and the defendant the opportunity to present evidence on the motion.

SECTION 4. Section 5, Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

Sec. 5. (a) Only the court in which the defendant was tried may grant probation, fix or alter conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. Only the judge who originally sentenced the defendant may suspend execution thereof and place the defendant under probation pursuant to Section 3e of this Article except that if the judge who originally sentenced the defendant is deceased or disabled or if the office is vacant and a motion is filed in accordance with Section 3e of this Article, the clerk of the court shall promptly forward a copy of the motion to the presiding judge of the administrative judicial district for that court, who may deny the motion without a hearing or appoint a judge to hold a hearing on the motion.

(b) After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this State having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court.

(c) Any court having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest shall be only by the court having jurisdiction of the case at the time the action is taken.

SECTION 5. A defendant's eligibility for shock probation is governed by this Act if the judgment of conviction is entered on or after the effective date of this Act. The eligibility for shock probation of a defendant as to whom a judgment of conviction was entered before the effective date of this Act is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this law were not in force.

SECTION 6. This Act takes effect September 1, 1981.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Bock

AMEND C.S.S.B. 123 AS FOLLOWS:

Strike all below the enacting clause and substitute in lieu thereof the following.

SECTION 1. Section 3e(a), Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

(a) For the purposes of this section, the jurisdiction of a court ~~the courts in this state~~ in which a sentence requiring confinement in the Texas Department

of Corrections is imposed for conviction (of a felony) shall continue for 180 [420] days from the date the execution of the sentence actually begins. After the expiration of 60 days but prior to the expiration of 180 [420] days from the date the execution of the sentence actually begins, the judge of the court that imposed such sentence may [-] on his own motion or on written motion of the defendant, suspend further execution of the sentence imposed and place the defendant on probation under the terms and conditions of this Article, if ~~[such sentence is otherwise eligible for probation under this Article and prior to the execution of such sentence, the defendant had never been incarcerated in a penitentiary serving a sentence for a felony and]~~ in the opinion of the judge the defendant would not benefit from further incarceration in a penitentiary. Probation may be granted under this Section only if:

(1) the defendant is otherwise eligible for probation under this Article;
and

(2) the defendant had never before been incarcerated in a penitentiary serving a sentence for a felony; and

(3) the offense for which the defendant was convicted was other than those defined by Section 19.02, 20.04, 21.03, 21.05, 22.03, 22.04(a)(1), (2), or (3), 29.03, 36.02, 38.07, 71.02 or a felony of the second degree under Section 38.10, Penal Code. [the offense for which the defendant was sentenced was an offense other than criminal homicide, rape, or robbery.]

SECTION 2. Section 3e(b), Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

When the defendant files a written motion requesting suspension by the court of further execution of the sentence and placement on probation, and, ~~[or]~~ when requested to do so by the court, [judge] the clerk of the court shall request a copy of the defendant's record while incarcerated from the Texas Department of Corrections. Upon receipt of such request, the Texas Department of Corrections shall forward to the court, as soon as possible, a full and complete copy of the defendant's record while incarcerated. When the defendant files a written motion requesting suspension of further execution of the sentence and placement on probation, he shall immediately deliver or cause to be delivered, a true and correct copy of the motion to the office of the prosecuting attorney.

SECTION 3. Section 3e, Article 42.12, Code of Criminal Procedure, 1965, is amended by adding Subsection (c) to read as follows:

(c) The court may deny the motion without a hearing, but may not grant the motion without holding a hearing and providing the attorney for the state and the defendant the opportunity to present evidence on the motion.

SECTION 4. Section 5, Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

Sec. 5. (a) Only the court in which the defendant was tried may grant probation, fix or alter conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. Only the judge who originally sentenced the defendant may suspend execution thereof and place the defendant under probation pursuant to Section 3e of this Article except that if the judge who originally sentenced the defendant is deceased or disabled or if the office is vacant and a motion is filed in accordance with Section 3e of this Article, the clerk of the court shall promptly forward a copy of the motion to the presiding judge of the administrative judicial district for that court, who may deny the motion without a hearing or appoint a judge to hold a hearing on the motion.

(b) After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this State having

geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court.

(c) Any court having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest shall be only by the court having jurisdiction of the case at the time the action is taken.

SECTION 5. A defendant's eligibility for shock probation is governed by this Act if the judgment of conviction is entered on or after the effective date of this Act. The eligibility for shock probation of a defendant as to whom a judgment of conviction was entered before the effective date of this Act is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this law were not in force.

SECTION 6. This Act takes effect September 1, 1981.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 205 WITH HOUSE AMENDMENTS

Senator Harris called S.B. 205 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - McFarland

Amend S.B. 205 by renumbering Section 9 as Section 10 and inserting a new Section 9 to read as follows:

Sec. 9. Subsection (a), Section 24, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) Nothing contained in this Act shall require any city with boundaries contiguous to a principal city and a population in excess of 150,000, according to the most recent federal census, or any city with boundaries contiguous to a principal city and with boundaries extending into two or more adjacent counties, two of which counties include a principal city, to be a part of or participate in the regional transportation authority provided herein. Such cities shall be called 'contiguous cities.'"

Floor Amendment No. 2 - L. Hall

Amend S.B. 205 as follows:

(1) Renumber Sections 5-8 as 7-10 and add new Sections 5 and 6 to read as follows:

SECTION 5. Section 7, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

"(e) If at the confirmation election the voters of the subregion approve the proposition that members of the permanent subregional board be elected, the members of the board shall be elected from nine single member districts as follows:

"(1) The board shall order each election of board members to be held on the uniform election date in January of each odd-numbered year and shall conduct the election in a manner consistent with the general election laws of this state. The chairman of the board shall give notice of an election in the manner provided by law for notice by the county judge of general elections. The board shall acquire the necessary election supplies and determine the amount of supplies to be provided at each polling place. Following an election, the board shall canvass the returns and enter an order declaring the result.

"(2) Residents of each district are entitled to elect one member to the board. A person who receives a majority of votes cast in the district is elected to the board. If no person receives a majority of votes at an election, the board shall order a runoff election in the district between the two candidates receiving the highest numbers of votes. The runoff election shall be held not earlier than the 20th or later than the 30th day after the day on which the final canvass of the earlier election is completed and shall be conducted in the manner provided for the earlier election. An elected member of the board serves for a term of two years expiring on April 1 of odd-numbered years.

"(3) To be a candidate, a person must be a registered voter residing in the district he seeks to represent and must apply to the board on a form provided by the board not later than the 30th day before election day. If a member representing a district changes residence to a location outside the district, the member's seat on the board becomes vacant. A change in the boundaries of a district that results in the member who represents the district no longer being a resident of the district does not affect the term of that member. The member serves for the remainder of the term to which elected unless the member changes residence to a location that is neither in the district as it existed on the date the member was elected to the current term nor in the new district, in which case the member's seat on the board becomes vacant.

"(4) If new territory is added to the authority, the board shall temporarily assign the territory to one or more districts as appropriate. As soon as practicable after addition of territory to the authority or after publication of a federal census, the board shall revise district boundaries to take account of population changes in the districts. A revision of boundaries following a federal census must be completed not later than the 120th day before the date of the first regular election of members of the board occurring after the date prescribed by law for taking note of a federal census.

"(5) The board shall fill any vacancy by appointment of a person to serve for the remainder of the unexpired term. The appointee must be a registered voter residing in the district that he or she is appointed to represent.

"(6) The single-member districts must be compact and contiguous and be to the extent practicable of equal population.

"(7) The initial election of members shall be held on the first uniform date occurring after 180 days after the day of the confirmation election. Not later

than 120 days before election day the interim subregional board shall divide the district into nine single-member districts in accordance with this subsection."

SECTION 6. Section 8(a), Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) Members of appointed subregional boards must be registered voters residing within the boundaries of the authority. They shall serve at the pleasure of the appointing local governing bodies. Reaffirmation of the appointments will be required each September 1. Vacancies shall be filled in the same manner as original appointments."

(2) In Section 5, add a new Subsection (m) to Article 1118y to follow Subsection (1) and read as follows:

"(m) If a separate confirmation election is held in a subregion having a principal city with a population of less than 800,000, according to the most recent federal census, the voters shall in addition be asked to vote for or against the proposition:

'Shall the permanent subregional board be composed of elected members.'"

(3) Renumber Section 9 as Section 12 and add a new Section 11 to read as follows:

SECTION 11. Section 22(a), Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) This section governs all elections ordered by the executive committee except elections held under the provisions of Sections 7 and [Section] 9 of this Act."

Floor Amendment No. 3 - McFarland

Amend S.B. 205 by renumbering Section 9 as Section 10 and inserting a new Section 9 to read as follows:

Sec. 9. Subsection (a), Section 24, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) Nothing contained in this Act shall require any city with a population in excess of 150,000, according to the most recent federal census and with boundaries contiguous to a principal city with a population less than 800,000 according to the most recent federal census, or any city with boundaries contiguous to a principal city and with boundaries extending into two or more adjacent counties, two of which counties include a principal city, to be a part of or participate in the regional transportation authority provided herein. Such cities shall be called 'contiguous cities.'"

The amendments were read.

Senator Harris moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 205 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Meier, Leedom, Traeger, Ogg.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator McKnight gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

COMMITTEE SUBSTITUTE HOUSE BILL 1228 ON SECOND READING

Senator Jones asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 1228, Relating to alternative ceilings on rates of interest or time price differential applicable to certain transactions.

There was objection.

Senator Jones then moved to suspend the regular order of business and take up **C.S.H.B. 1228** for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 4, Present-not voting 1.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Vale, Williams, Wilson.

Nays: Blake, Mauzy, Parker, Truan.

Present-not voting: Farabee.

The bill was read second time.

Senator McKnight offered the following amendment to the bill:

Amend **C.S.H.B. 1228** by deleting all of section 1.04(b), page 3 and replacing it with a new section 1.04(b) to read as follows:

(b) If a computation under Section (a)(1), (a)(2), or (c) of this Article is less than 18 percent a year, the ceiling under that provision is 18 percent a year. If a computation under Section (a)(1), (a)(2), or (c) of this Article is more than 24 percent a year, the ceiling under that provision is 24 percent a year. References in this Article to the indicated rate ceiling, annualized ceiling, quarterly ceiling, or monthly ceiling mean such a ceiling as modified by this section.

The amendment was read.

Senator Jones moved to table the amendment.

The motion was lost by the following vote: Yeas 14, Nays 17.

Yeas: Andujar, Brown, Glasgow, Harris, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Traeger, Travis, Uribe.

Nays: Blake, Brooks, Caperton, Doggett, Farabee, Howard, Mauzy, McKnight, Ogg, Parker, Sarpalius, Short, Snelson, Truan, Vale, Williams, Wilson.

Senator Jones offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to read as follows:

C.S.H.B. 1228 is amended by deleting subsection (b)(2) on lines 37 through 45 on page 3 and adding new language as follows:

(2) Notwithstanding the provisions of Subsection (1) of this Section (b), on any contract providing for a loan or other extension of credit in the original principal amount of \$100,000 or more, or any series of advances of money if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to such agreement equals or exceeds \$100,000, or any extension or renewal of such loan or extension of credit (regardless of whether or not the outstanding principal balance thereof at the time of such renewal or extension is \$100,000 or more), and under which credit is extended for business, commercial, investment, agricultural, or other similar purpose, but excluding any contract that is not for any of those purposes and is for personal, family or household use, the 24 percent limitation on the ceilings in Section (b)(1) above that is applicable to the computations under Sections (a)(1), (a)(2), or (c) of this Article shall not apply, and the limitation on the ceilings determined by those computations shall be 28 percent a year.

The amendment to the pending amendment was read.

Senator McKnight moved to table the amendment to the pending amendment.

The motion was lost by the following vote: Yeas 15, Nays 16.

Yeas: Blake, Caperton, Doggett, Farabee, Howard, Mauzy, McKnight, Ogg, Parker, Short, Snelson, Truan, Vale, Williams, Wilson.

Nays: Andujar, Brooks, Brown, Glasgow, Harris, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Traeger, Travis, Uribe.

Question - Shall the amendment to the pending amendment be adopted?

SENATE RULE 103 SUSPENDED

On motion of Senator Snelson and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider H.C.R. 110 today.

RECESS

On motion of Senator Brooks the Senate at 12:24 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Blake submitted the following report for the Committee on Administration:

H.C.R. 110**HOUSE CONCURRENT RESOLUTION 110 ON SECOND READING**

On motion of Senator Snelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

H.C.R. 110, Designating the fourth Saturday in April as "Texas Wildflower Day".

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 92

Senator Doggett offered the following resolution:

WHEREAS, Friday, April 17, 1981 is Good Friday, a Holy Day of great meaning throughout the Christian world; and

WHEREAS, Churches of various denominations will hold religious services in observance of the day; and

WHEREAS, It is proper and desirable that state employees be afforded the opportunity of participating in the religious services of their faith on this occasion; now, therefore, be it

RESOLVED by the Senate of the 67th Legislature of the State of Texas, the House of Representatives concurring, that all state departments and agencies be closed for a half day, emergency services excepted, beginning at noon on Friday, April 17, 1981.

The resolution was read.

On motion of Senator Doggett and by unanimous consent, the resolution was considered immediately and was adopted.

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

H.C.R. 149

**COMMITTEE SUBSTITUTE HOUSE BILL 1228
ON SECOND READING**

The Senate resumed consideration of C.S.H.B. 1228 on its second reading and passage to engrossment with an amendment by Senator Jones to an amendment by Senator McKnight pending.

Question - Shall the amendment to the pending amendment be adopted?

Senator Ogg offered the following substitute for the amendment to the amendment.

Substitute for Amendment to Floor Amendment No. 2 to read as follows:

C.S.H.B. 1228 is amended by deleting subsection (b)(2) on lines 37 through 45 on page 3 and adding new language as follows:

(2) Notwithstanding the provisions of Subsection (1) of this Section (b) on any contract providing for a loan or other extension of credit in the original principal amount of 2,000,000.00 or more, or any extension or renewal of such loan or extension of credit and under which credit is extended for business, commercial, investment, agriculture or other similar purpose, but excluding any contract that is not for any of these purposes and is for personal, family or household use, the 24% limitation on the ceilings in Section (b)(1) above that is applicable to the computations under Section (a)(1), (a)(2), or (c) of this Article shall not apply, and the limitation on the ceilings determined by those computations shall be 28% a year.

The substitute for the amendment to the amendment was read.

On motion of Senator Jones, the substitute for the amendment to the amendment was tabled by the following vote: Yeas 18, Nays 9.

Yeas: Blake, Brooks, Brown, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Short, Snelson, Travis, Uribe, Vale.

Nays: Caperton, Doggett, Mauzy, McKnight, Ogg, Parker, Truan, Williams, Wilson.

Absent: Andujar, Santiesteban, Sarpalius, Traeger.

Question recurring on the adoption of the amendment to the amendment, the amendment to the amendment failed of adoption by the following vote: Yeas 14, Nays 16.

Yeas: Andujar, Brooks, Brown, Glasgow, Harris, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Traeger, Travis, Uribe.

Nays: Blake, Caperton, Doggett, Farabee, Howard, Mauzy, McKnight, Ogg, Parker, Sarpalius, Short, Snelson, Truan, Vale, Williams, Wilson.

Absent: Santiesteban.

Senator Jones offered the following amendment to the pending amendment:

Amend Floor Amendment No. 1 to read as follows:

C.S.H.B. 1228 is amended by deleting subsection (b)(2) on lines 37 through 45 on page 3 and adding new language as follows:

(2) Notwithstanding the provisions of Subsection (1) of this Section (b), on any contract under which credit in an amount in excess of \$250,000 is or is to be extended, or any extension or renewal of such a contract, and under which the credit is extended for business, commercial, investment, or other similar purpose, but excluding any contract that is not for any of those purposes and is primarily for personal, family, household, or agricultural use, the 24 percent limitation on the ceilings in Section (b) (1) above that is applicable to the computations under Section (a) (1), (a) (2), or (c) of this Article shall not apply, and the limitation on the ceilings determined by those computations shall be 28 percent a year.

The amendment to the pending amendment was read.

Senator McKnight moved to table the amendment to the pending amendment.

The motion was lost by the following vote: Yeas 14, Nays 16.

Yeas: Blake, Caperton, Doggett, Farabee, Glasgow, Howard, Mauzy, McKnight, Ogg, Parker, Snelson, Truan, Vale, Wilson.

Nays: Andujar, Brooks, Brown, Harris, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Sarpalius, Short, Traeger, Travis, Uribe, Williams.

Absent: Santiesteban.

Question recurring on the adoption of the amendment to the pending amendment, the amendment to the pending amendment was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Andujar, Brooks, Brown, Glasgow, Harris, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Uribe, Williams.

Nays: Blake, Caperton, Doggett, Farabee, Howard, Mauzy, McKnight, Ogg, Parker, Snelson, Truan, Vale, Wilson.

Question recurring on the pending amendment as amended, the pending amendment as amended was adopted by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Ogg.

(Senator Snelson in Chair)

Senator Farabee offered the following amendment to the bill:

Amend the Committee Substitute for House Bill 1228 at SECTION 5 by amending the first sentence of Subsection (f) of Article 1.04 to read as follows:

"(f) The parties to any contract, except agreements for the extension of credit primarily for personal, family or household use in which the principal is less than \$25,000, but including credit cards and secondary mortgage loans, may agree to and stipulate for a rate or amount by contracting for any index, formula, or provision of law, by or under which a numerical rate or amount can from time to time be determined."

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Andujar, Brooks, Brown, Glasgow, Harris, Jones, Kothmann, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Vale, Williams.

Nays: Blake, Caperton, Doggett, Farabee, Howard, Leedom, Mauzy, Snelson, Truan, Uribe, Wilson.

Senator Farabee offered the following amendment to the bill:

Amend the Committee Substitute for House Bill 1228 at SECTION 8 by striking the last sentence of (1) of Article 2.08 and substituting in lieu thereof the following:

"The Index for December 1980 is the Reference Base Index period for the purpose of determining the adjustment to be made in the rate brackets and ceilings."

The amendment was read.

(President in Chair)

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Andujar, Brooks, Brown, Glasgow, Harris, Jones, Kothmann, Leedom, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Traeger, Travis, Uribe, Vale, Williams.

Nays: Blake, Caperton, Doggett, Farabee, Howard, Mauzy, McKnight, Short, Snelson, Truan, Wilson.

Senator Vale offered the following amendment to the bill:

Amend Committee Substitute for House Bill 1228 as follows:

1. Following Section 7 of the bill, insert the following section to be numbered Section 8 of the bill:

"SECTION 8. Article 2.07, Title 79, Revised Civil Statutes of Texas, 1925, as amended is amended to read as follows:

"No licensee under Chapter 3 of this Title or other person involved in transactions subject to ~~[regulated by Subtitle Two of]~~ this Title may deny an individual credit or loans in his or her name, or restrict or limit the credit or loan granted solely on the basis of sex, race, color, religion, or national origin."

In interpreting this section, the courts and administrative agencies shall be guided by the federal Equal Credit Opportunity Act and regulations thereunder and interpretations thereof by the Federal Reserve Board to the extent that that Act and those regulations and interpretations pertain to conduct prohibited by this section."

2. Renumber Section 8 of the bill as Section 9 and renumber the succeeding sections accordingly.

The amendment was read and was adopted.

Senator Doggett offered the following amendment to the bill:

Amend Section 11 of **H.B. 1228** by amending Article 3.16 (4) on line 41 of page 10 to read as follows:

"On the prepayment of any loan made pursuant to Article 3.16 both the acquisition charge and the installment handling charge shall be subject to the provisions of Article 3.15 as it relates to refunds."

The amendment was read.

Question - Shall the amendment be adopted?

MESSAGE FROM THE HOUSE

House Chamber
April 15, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 19, Relating to the penalty for the offense of wholesale promoting obscene materials or obscene devices.

H.B. 1164, Relating to the effect of the failure of a jury to agree on special issues affecting the punishment in a capital case.

H.B. 1107, Relating to regulation of frozen dessert manufacturers; providing penalties.

H.B. 1175, Relating to uniform enforcement of foreign judgments.

H.B. 1421, Relating to rewards for persons providing information about game law violators.

H.B. 1412, Establishing administrative remedies.

H.B. 1691, Relating to shut-in and compensatory royalty clauses in oil and gas leases issued by the commissioner of the General Land Office.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 205**.

House Conferees: Semos, Chairman; Hall, L.; Lewis, Jackson, Cain.

H.B. 1677, Relating to the correction of statutory references to the General Appropriations Act.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Brooks in Chair)

**REQUEST FOR PERMISSION FOR FINANCE
COMMITTEE TO MEET**

Senator Jones asked for permission to allow the Finance Committee to meet while the Senate was in session.

There was objection.

COMMITTEE SUBSTITUTE HOUSE BILL 1228 ON SECOND READING

The Senate resumed consideration of **C.S.H.B. 1228** on its second reading and passage to engrossment with an amendment by Senator Doggett pending.

Question - Shall the amendment be adopted?

(President in Chair)

On motion of Senator Jones the amendment was tabled by the following vote: Yeas 23, Nays 7.

Yeas: Andujar, Brooks, Brown, Caperton, Glasgow, Harris, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Uribe, Williams, Wilson.

Nays: Blake, Doggett, Farabee, Howard, Mauzy, Snelson, Truan.

Absent: Vale.

Senator Truan offered the following amendment to the bill:

Amend **C.S.H.B. 1228** in the following manner:

Amend **C.S.H.B. 1228** at Section 5 by adding the following as Art. 1.04(s):

(s) No creditor may rely upon the maximum rate of interest provided by this article with respect to any consumer agreement in which the rate of interest, or method of calculating interest, and the provisions for creditor's security interest and methods of prepayment are stated in technical language not easily understood by the ordinary consumer. The notices and disclosure required by (i) of this article shall be displayed in a conspicuous manner, using easily understood sentences with words having common and everyday meanings. For purposes of this sub-section, "consumer agreement" means any loan that is extended primarily for personal, family, or household use.

The amendment was read.

Question - Shall the amendment be adopted?

SENATE PAGES EXCUSED

On motion of Senator Brooks and by unanimous consent, the Senate Pages were excused from their duties for the remainder of the day.

COMMITTEE SUBSTITUTE HOUSE BILL 1228 ON SECOND READING

The Senate resumed consideration of **C.S.H.B. 1228** on its second reading and passage to engrossment with an amendment by Senator Truan pending.

Question - Shall the amendment be adopted?

(Senator Caperton occupied the Chair pending discussion of the bill)

(President in Chair)

LEAVES OF ABSENCE

Senator Vale was granted leave of absence for the remainder of today on account of important business on motion of Senator Mauzy.

Senator Wilson was granted leave of absence for the remainder of today on account of important business on motion of Senator Brooks.

COMMITTEE SUBSTITUTE HOUSE BILL 1228 ON SECOND READING

The Senate resumed consideration of **C.S.H.B. 1228** on its second reading and passage to engrossment with an amendment by Senator Truan pending.

Question - Shall the amendment be adopted?

On motion of Senator Jones, the amendment by Senator Truan was tabled by the following vote: Yeas 26, Nays 3.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Tracger, Travis, Uribe, Williams.

Nays: Doggett, Mauzy, Truan.

Absent-excused: Vale, Wilson.

Senator Ogg offered the following amendment to the bill:

Amend **C.S.H.B. 1228** by adding a new section 19 and amending the present section 20 in the following manner, and further re-numbering the present section 19 and subsequent sections to conform to the additions.

1. Section 19 is added as follows:

"Section 19. Article 15.01(e), Title 79, Rev. Civ. Stat. Tex., 1925, as amended, (Art. 5069-15.01 (c) Vernon's Tex. Civ. Stat.) is amended as follows:

(c) 'Average daily balance' means the sum of each day's ending balance in an account during ~~a~~ the previous billing cycle (less any interest included in such balance), divided by the number of days in ~~such~~ the previous billing cycle. Such sum may include purchases and loans posted to the account during the previous ~~such~~ billing cycle and such sum shall be reduced by all payments and credits during ~~such~~ the previous billing cycle."

2. The present section 20 is amended as follows:

"Section 20. Art. 15.02, Title 79, Rev. Civ. Stat. Tex., 1925, as amended, is amended by adding Sections (d) and (e) to read as follows:

(d) Interest may not accrue upon transactions except for the amount or portion thereof which remains unpaid at the time of the billing cycle immediately following the billing cycle in which the customer was given an initial opportunity to pay for the purchases.

(e) As an alternative to the rates authorized by Section (a) of this Article, the parties may agree to any rate calculated pursuant to (d) of this Article not exceeding a rate authorized by Art. 1.04 of this Title."

The amendment was read.

Senator Jones moved to table the amendment.

The motion was lost by the following vote: Yeas 14, Nays 15.

Yeas: Andujar, Brown, Glasgow, Harris, Jones, Kothmann, Meier, Parker, Richards, Santiesteban, Sarpalius, Traeger, Travis, Uribe.

Nays: Blake, Brooks, Caperton, Doggett, Farabee, Howard, Leedom, Mauzy, McKnight, Mengden, Ogg, Short, Snelson, Truan, Williams.

Absent-excused: Vale, Wilson.

Question recurring on the adoption of the amendment, the amendment was adopted.

Senator Doggett offered the following amendment to the bill:

Amend C.S.H.B. 1228 by adding the following as a new section 11, and renumbering the present section 11 as section 12, and further renumbering subsequent sections to conform to the addition:

SECTION 11. Art. 3.11, Chapter 3, Title 79, Rev. Civ. Stat. Tex., 1925, (Art. 5069-3.11, Vernon's Tex. Civ. Stat.) is amended to read as follows:

"Article 3.11. Annual reports

"(1) Each licensee shall, annually on or before the first day of March ~~[April or other date thereafter fixed by the Consumer Credit Commissioner]~~ file a report with the Consumer Credit Commissioner giving such relevant information as the Consumer Credit Commissioner may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the State.

“(2) Such report shall be made under oath and shall be in the form prescribed by the Consumer Credit Commissioner.”

“(3) Sufficient data shall be included in the reports to allow compilation of the rate of return on equity or the ratio of income to investment for each licensee.

“(4) The Consumer Credit Commissioner ~~[who]~~ shall make and publish annually no later than May 1 of each year a consolidated analysis and recapitulation of such reports, including the rate of return on equity or ratio of income to investment for each licensee.

“(5) The reports of licensees and the report of the Consumer Credit Commissioner shall be available on request. ~~[but the individual reports shall be held confidential.]”~~

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Andujar, Brooks, Brown, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Ogg, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Williams.

Nays: Blake, Caperton, Doggett, Mauzy, McKnight, Parker, Truan.

Absent-excused: Vale, Wilson.

Senator Parker offered the following amendment to the bill:

Amend C.S.H.B. 1228 as follows:

(1) On page 4, line 52, strike “current and”.

(2) On page 5, line 10, after the period add: “Following an agreement to a new rate, the new rate applies only to purchases made on or after the day on which the new rate becomes effective.”

(3) On page 5, line 41, strike “current and”.

(4) On page 5, lines 49 and 50, strike “and whether or not it will affect current as well as future balances”.

(5) On page 13, lines 9 and 10, strike “existing on the effective date of this Act and not previously subject to Article 1.04, as amended,”.

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 18, Nays 11.

Yeas: Andujar, Brooks, Brown, Harris, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis.

Nays: Blake, Caperton, Doggett, Farabee, Glasgow, Howard, Mauzy, Parker, Truan, Uribe, Williams.

Absent-excused: Vale, Wilson.

Senator Doggett offered the following amendment to the bill:

Renumber existing Section 25 to be Section 26 and add the following as new Section 25:

Section 25. Effective date. This Act shall be applicable to all claims of forfeiture made after the effective date of this Act but, with respect to claims of forfeiture in litigation pending at such effective date, the amount forfeited shall be determined under the provisions of the law as it existed prior to the effective date of this Act.

The amendment was read and was adopted.

Senator Doggett offered the following amendment to the bill:

Amend C.S.H.B. 1228 at Section 5 page 7, line 62 by adding the following after "Title":

"The failure to perform any duty or comply with any prohibition required by Article 1.04, in a contract entered under authority of Article 1.04, shall be subject to the penalties set out in Article 5069-8.01(b) and shall be subject to such of the other provisions of Article 5069-8.01 through 8.06 which apply to failures to perform duties or comply with prohibitions to the same extent as if the duties and prohibitions in Article 1.04 were contained in Subtitle 2."

The amendment was read and was adopted.

Senator Mauzy offered the following amendment to the bill:

Amend Committee Substitute for House Bill No. 1228 by striking Section 25 and adding in lieu thereof the following:

Section 25. If any provision of this Act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Andujar, Brown, Caperton, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Richards, Santiesteban, Sarpalius, Short, Tracger, Travis, Uribe.

Nays: Blake, Brooks, Doggett, Farabee, Mauzy, Ogg, Parker, Snelson, Truan, Williams.

Absent-excused: Vale, Wilson.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTES

Senators Mauzy, Truan, Doggett and Blake asked to be recorded as voting "Nay" on the passage of the bill to third reading.

RECORD OF VOTE

Senator Farabee asked to be recorded as voting "Present-not voting" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1228 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 1228 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Williams.

Nays: Blake, Mauzy, Truan.

Absent-excused: Vale, Wilson.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 4, Present-not voting 1.

Yeas: Andujar, Brooks, Brown, Caperton, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Williams.

Nays: Blake, Doggett, Mauzy, Truan.

Present-not voting: Farabee.

Absent-excused: Vale, Wilson.

MEMORIAL RESOLUTIONS

S.R. 512 - By Snelson: Memorial resolution for Fred J. Ellyson, Sr.

S.R. 513 - By Snelson: Memorial resolution for Ruby Murray.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 502 - By Uribe: Declaring April 18, 1981 as SPRING HIGH DAY in Texas.

S.R. 509 - By Wilson: Extending welcome to Dr. Bert Garrett, "Capitol Physician" for the day.